

10-15-2015

## State v. Savage Appellant's Reply Brief Dckt. 42717

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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	NO. 42717
	)	
v.	)	CANYON CO. NO. CR 2007-14455
	)	
BRANDON E. SAVAGE,	)	
	)	APPELLANT'S REPLY BRIEF
Defendant-Appellant.	)	
	)	
	)	
	)	

STATEMENT OF THE CASE

Nature of the Case

Brandon E. Savage was found to be in violation of his probation, and the district court revoked probation and executed his underlying sentence of ten years, with three years fixed. In his Appellant's Brief, Mr. Savage asserted that the district court abused its discretion when it revoked his probation and executed his original sentence instead of retaining jurisdiction or reinstating probation.

In its Respondent's Brief, the State argued that Mr. Savage failed to establish an abuse of discretion because, among other things, Mr. Savage's probation officer recommended that the district court execute the underlying sentence. This reply brief is necessary to address the fact that the probation officer's statement was not accurate.

## Statement of the Facts and Course of Proceedings

The statement of the facts and course of proceedings were previously articulated in Mr. Savage's Appellant's Brief. They need not be repeated in this Reply Brief, but are incorporated herein by reference thereto.

## ISSUE

Did the district court abuse its discretion when it revoked Mr. Savage's probation and executed his underlying sentence of ten years, with three years fixed?

## ARGUMENT

### The District Court Abused Its Discretion When It Revoked Mr. Savage's Probation And Executed His Underlying Sentence Of Ten Years, With Three Years Fixed

In its Respondent's Brief, the State quoted Mr. Savage's probation officer. (Resp. Br., p.4.) It said,

"In his December 2013 Report of Probation Violation, Savage's probation officer recommended the district court impose Savage's original sentence and stated: 'Mr. Savage is before the court yet again for violating the rules of his probation. Each and every time that he has violated his probation it has been with his victim, Bessie. She has been victimized once again by Mr. Savage.'"

(Resp. Br., p.4.)

The probation officer's statement was not accurate. In regard to the first probation violation, Mr. Savage admitted to possessing alcohol, weapons, and pornography. (R., pp.152-55, 182-83.) In regard to the second violation, Mr. Savage admitted to possessing alcohol and pornography, and using his cell phone to send text messages. (R., pp.191-95, 224-25.) As such, those violations had nothing to do with

Bessie. In fact, at the time of those violations, Mr. Savage was married to Bessie and living with her. (R., pp.154, 194-95.)

### CONCLUSION

Mr. Savage respectfully requests that this Court reduce his sentence as it deems appropriate. Alternatively, he requests that his case be remanded to the district court for a new probation violation disposition hearing.

DATED this 15<sup>th</sup> day of October, 2015.

\_\_\_\_\_/s/\_\_\_\_\_  
REED P. ANDERSON  
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CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 15<sup>th</sup> day of October, 2015, I served a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

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\_\_\_\_\_/s/\_\_\_\_\_  
EVAN A. SMITH  
Administrative Assistant

RPA/eas